

UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT

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STATE OF CALIFORNIA, *et al.*,

*Petitioners,*

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et al.*,

*Respondents.*

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AMERICAN LUNG ASSOCIATION, *et al.*,

*Petitioners,*

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et al.*,

*Respondents.*

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CENTER FOR BIOLOGICAL  
DIVERSITY,

*Petitioner,*

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et al.*,

*Respondents.*

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No. 21-1014  
(lead)

No. 21-1027  
(consolidated)

No. 21-1054  
(consolidated)

**UNOPPOSED MOTION FOR EXTENSION OF ABEYANCE**

Respondents United States Environmental Protection Agency, *et al.* (“EPA”) respectfully request that the Court continue to hold this case in abeyance until the resolution of the petitions for review in *Commonwealth of Kentucky et al. v. EPA et al.*, Case No. 24-1050 (D.C. Cir.) (and consolidated cases).

Petitioners in the above-captioned consolidated cases seek judicial review of an action titled “Review of the National Ambient Air Quality Standards for Particulate Matter,” 85 Fed. Reg. 82,684 (Dec. 18, 2020) (“Particulate Matter NAAQS Decision”). In 2021, Respondents United States Environmental Protection Agency, *et al.* (“EPA”) indicated its intention to reconsider the Particulate Matter NAAQS Decision. The Court granted EPA’s motion to place these cases in abeyance pending that reconsideration and has granted subsequent requests to extend that abeyance, most recently through May 30, 2024. Clerk’s Order (Doc. 2043078).

On February 5, 2024, EPA signed a final action representing its reconsideration of the Particulate Matter NAAQS Decision revising the particulate matter NAAQS. *Reconsideration of the National Ambient Air Quality Standards for Particulate Matter*, 89 Fed. Reg. 16,202 (Mar. 6, 2024). Several petitions for review of that action have been filed and consolidated under *State of Kentucky et*

*al. v. EPA*, Case No. 24-1050 (D.C. Cir.). The Court has entered a briefing schedule, under which final briefs are due October 15, 2024.

Extending the abeyance as requested will promote judicial economy by avoiding unnecessary adjudication of issues and claims that may become moot after resolution of the *Commonwealth of Kentucky et al.* petitions.

Further, the requested extension would not prejudice any party. Counsel for EPA has conferred with counsel for Petitioners State of California *et al.* (Case No. 21-1014), American Lung Association *et al.* (Case No. 21-1027), and Center for Biological Diversity (Case No. 21-1054) and has been authorized to report that Petitioners do not oppose the requested relief. Counsel for EPA has also conferred with counsel for Intervenors and has been authorized to report that Intervenors take no position on this motion. The postponement of judicial review of the underlying 2020 Particular Matter NAAQS Decision will not prejudice any party, because that Decision will not have any effect unless EPA's reconsideration of that decision is vacated after review of the *Kentucky* petitions.

EPA accordingly requests that the Court extend the abeyance of this matter until the petitions for review in *Commonwealth of Kentucky et al. v. EPA et al.*, Case No. 24-1050 (D.C. Cir.) (and consolidated cases) are fully resolved.

Respectfully submitted,

Dated: May 30, 2024

/s/ Sarah A. Buckley

SARAH A. BUCKLEY

DEVON FLANAGAN

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al.*

**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 27(d), I hereby certify that the foregoing complies with the type-volume limitation because it contains 413 words, according to the count of Microsoft Word.

/s/ Sarah A. Buckley  
SARAH A. BUCKLEY

**CERTIFICATE OF SERVICE**

I hereby certify, pursuant to Fed. R. App. P. 25(c), that the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send a notification to the attorneys of record in this matter, who are registered with the Court's CM/ECF system.

/s/ Sarah A. Buckley  
SARAH A. BUCKLEY